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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Children and Armed Conflict: Violation of Rights to health of children in Iraq needs immediate international attention

1. Introduction

Following a fact finding mission on congenital birth defects (CBD) in Fallujah, Iraq in 2013, Human Rights Now (HRN)[1] found a troubling rise CDBs in the country and believes that the rights to health and life of children has been violated from environmental contamination resulting from heavy combat in the Iraq War. Due to the increase in birth defects being reported, HRN urges the governments of the US and UK to investigate the sources and spread of these birth defects and adopt measures to address the harms imposed on Iraqi citizens. HRN calls on the UN Human Rights Council to establish measures for the investigation of all human rights abuses committed during the war, including the use of inhumane and toxic weapons.

Furthermore, HRN is concerned with the Iraqi Ministry of Health (MOH) and WHO for their questionable report pertaining to the CBDs found in Iraq, and urge both WHO and the Iraqi MOH to allow their study to be thoroughly peer reviewed and to conduct a hospital based survey.

2. Background

In the US attacks on Fallujah in 2004, there were reports of direct attacks against civilians and the use of white phosphorous and depleted uranium munitions in civilian areas. Depleted uranium ("DU") is a radiological heavy metal that was used extensively by US and UK forces during the 1991 Gulf War and 2003 Iraq war. An overview of scientific literature shows the effects of uranium and heavy metals associated with munitions used in the 2003 Iraq War and occupation suggests that environmental contamination resulting from combat is playing a significant role in the observed rate of birth defects in Iraq. Although the UK government has disclosed data about firing locations to UNEP, the US has not yet to do so, obstructing clean-up efforts in Iraq. HRN believes that the US should disclose their data to UNEP to expedite the clean-up process.

3. Increase in birth defects

In the years following the war, there has been an epidemic of CBDs in Iraq cities. Iraqi physicians have expressed concerns to the international community about the prevalence of birth defects through various media. In Fallujah, an area where white phosphorous weapons and DU munitions were allegedly used, the Fallujah General Hospital showed that 15% of infants since 2003 have had congenital birth defects.

The following numbers are the CBD rates compiled from a number of peer-reviewed journals created by various specialists in Iraqi Hospitals published by the Centre for Research on Globalization on October 9, 2013[2].

- 12.3/1000 birth in maternity and children's hospital in Baghdad [24];
- 8.6/1000 birth in Ramadi General Hospital, 2008 [25];
- 4.7/1000 birth in Dohuk, Kurdistan Region, Iraq, 2004-2008[26];
- 8.4/1000 birth only (NTD) in Diwania, 2000 [27];
- 3.06/1000 birth in Arbil, Kurdistan Region, Iraq [28];
- 50/1000 birth in Fallujah General Hospital, 2010 [2];
- 23-48/ 1000 birth in Basrah Maternity Hospital, 2003-2011 [2];
- 27/1000 birth in Najaf [29]

[1] Human Rights Now (HRN) is a Tokyo based international human rights NGO: http://hrn.or.jp/eng/

[2] Global Research, Congenital Birth Defects in Iraq: Concealing War Crimes against Iraqi Children, Twisting and Distorting the Evidence http://www.globalresearch.ca/congenital-birth-defects-in-iraq-concealing-war-crimes-against-iraqi-children-twisting-and-distorting-the-evidence/5353667

- 19.3/1000 birth in Al Qaiem District, Anbar, 2009-2011.

(CBD Data compiled by The Centre for Research on Globalization)

According to the data above, the areas with the highest rates of CBDs are Fallujah, Basra, and Najaf, all areas where the US and UK forces used DU munitions, and we urge an independent and credible investigation of those correlations and responsibilities by two countries:

1. In Fallujah, the CBD rate is highest at 50/1,000; US and UK forces used DU munitions and white phosphorous during both wars.
2. Basra, an area with the densest concentration of sites contaminated in Iraq, the CBD rate is 23-48/1000. The UK and US used DU munitions in Battle of Basra in 2003, and bombs containing high levels of heavy metals.
3. The US military used DU munitions in the Battle of Najaf 2004, and the CBD rate is 27/1000.

4. Potential link between CBDs and the use of munitions containing environmental contamination such as heavy metals and DU

Although the source of the increase in birth defects is unclear, depleted uranium is a known carcinogen, and it can cause birth defects. For other heavy metals found in munitions, such as lead and mercury, there is stronger evidence demonstrating their toxicity if taken up into organic matter. Taking lead into the body can lead to a range of negative effects, including neurological damage, kidney damage, miscarriage, premature birth, and death. Mercury is known to cause impairment of neurological development particularly in foetuses and infants, as well as toxic effects on the immune and digestive systems, and it is a possible human carcinogen.[3]

5. WHO and Iraqi MOH Report

On September 11, 2013, the Iraqi MOH and WHO released the much awaited report on the CBD crisis in Iraq. The report was criticized for suggesting there was "no clear evidence to suggest an unusually high rate of congenital birth defects in Iraq."[4] WHO emphasized that the study was not investigating the possible link between CBDs and DU munitions. The report failed to gather information from hospitals; instead used a household survey that merely used "memories of the persons who were interviewed and their self-reporting of specific events that may have occurred several years in the past"[5]. Only 32% of those who reported to have had children with CBDs provided a medical record to surveyors. WHO and the Iraqi MOH insisted that their studies and reports were conducted thoroughly and properly[6]. However Simon Cousens, professor of epidemiology and statistics at LSHTM invited by WHO to review the study, told the Lancet that he "attended a relatively brief meeting of around one and a half hours, so just gave some comments on an early presentation of the results. I wouldn't classify that as thorough peer review"[7].

6. Legal responsibilities

The governments of the US and UK are bound by law to address the issue of toxic or otherwise harmful munitions and debris left following conflict, and their risk on an occupied population. Such as The Fourth Geneva Convention's Article 56 duty on occupying powers to provide for public health in occupied territory; the duty of the UK under 1977 Additional Protocol I to ensure human rights guarantees to life and health in territory it occupies; and the ICESCR's Article 12 recognition of a right to health and duty on members to take steps to improve environmental hygiene, to

[3] "Health effects of mercury" US Environmental Protection Agency http://www.epa.gov/hg/effects.htm
[4] WHO, "Summary of the Prevalence of reported Congenital Birth Defects in 18 Selected Districts in Iraq" http://www.emro.who.int/images/stories/iraq/documents/Congenital_birth_defects_report.pdf
[5] WHO, "Summary of the Prevalence of reported Congenital Birth Defects in 18 Selected Districts in Iraq"
[6] RT, "Why the WHO report on congenital anomalies in Iraq is a disgrace" http://rt.com/op-edge/who-iraq-report-disgrace-461/
[7] The Lancet, "Questions raised over Iraq Congenital Birth Defects Study" http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)61812-7/fulltext

which the UK is bound as a state member and the US is a signatory. Domestic federal and military rules in the US on "stability operations" and "environmental considerations" also requires US military operations to environmental clean up and provisions for public health.[8]

Rights-based obligations towards environmental harms include both substantive obligations on states to avoid mortal risks within areas of their control and remove them when they are discovered and procedural obligations when mortal risks are discovered, including conducting an investigation, disclosing information on the risks such as information about related wartime activities, and providing affected persons effective remedies such as treatment and compensation. Unless proper investigations and clean-up activities are pursued, it will be impossible for affected peoples to achieve the right to health, as the environmental contamination will continue.

7. Recommendations

HRN calls on the US and UK governments to disclose all information regarding the types of weapons used during the occupation, quantities fired, exact firing points, and to take necessary measures to protect the right to health and life of the local people.

Furthermore HRN finds the outcomes of the WHO/Iraqi MOH report on CBDs in Iraq have little scientific weight. HRN additionally urges WHO and the Iraqi MOH to submit the report to a peer review and survey the possible connection between DU munitions and CBDs. Ignoring medical evidence and subsequently denying the presence of a crisis is unacceptable. The motives for ignoring data from local Iraqi hospitals are worrisome, as WHO stated there was a grave crisis concerning CBDs in Iraq in the past.

[8] See, respectively, US Executive order EO 12114, "Environmental Effects Abroad of Major Federal Actions"; US Department of Defense directive DODD 3000.05 (2005); US field manual FM 3-100.4, *Environmental Considerations in Military Operations.*